

[Embargoed for: 30 June 1998]

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EAST TIMOR

The moment for a comprehensive human rights programme

**Statement before the United Nations Special
Committee on Decolonization - 30 June 1998**



June 1998
AI Index: ASA 21/69/98
Distr: SC/CC/GR

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EAST TIMOR

The moment for a comprehensive human rights programme

Chairman,

The recent changes in leadership in Indonesia, prompted by popular protest against years of repression and political exclusion, have created a unique opportunity for the new Indonesian Government and the international community to find a speedy solution to the problem of East Timor. After 23 years of political impasse and serious human rights violations, it is evident that the protection of human rights and the creation of an environment enabling the full and free participation of the people of East Timor in the decision making process about the future of the territory is the key to finding a durable and peaceful solution.

Already the new government in Indonesia has demonstrated some willingness to implement political, legal and human rights reforms in Indonesia. It has also gone some way to acknowledging the need for change in East Timor by proposing a settlement which, while rejected by other parties involved, nevertheless provides a new impetus to United Nations (UN) sponsored talks on East Timor.

Prior to a political settlement there must first be agreement on a programme of measures and reforms which would guarantee that the rights of the people of East Timor are protected so that they can participate in the political process without fear for their own safety and that of their families.

The international community has a crucial role to play in this process. Initiatives already taken by the UN Secretary General, his Personal Representative on East Timor and by other governments, including the South African Government, provide a basic framework for discussions to resolve the problem of East Timor. This moment of political transition in Indonesia and of high expectations among the people of East Timor provides the context for the development and implementation of a comprehensive human rights programme involving the Government of Indonesia, the international community, donor countries and international financial institutions.

Amnesty International is standing here today to outline its proposals for this human rights programme and to appeal to all parties involved not to squander this unique opportunity to relieve the suffering of the people of East Timor once and for all.

Situation update

Despite the resignation of the former President Suharto on 21 May the human rights situation in East Timor remains fundamentally unchanged. Demonstrations have been taking place almost daily in Dili, for the most part without incident, and the number of human rights violations reported *have* declined. Yet the structures which make violations possible remain in place. The use of lethal force by the military in Baucau and Manatuto in recent days shows how grave the risk of continuing violations is.

Prominent among the structures which facilitate the violation of human rights is a judiciary which lacks independence both in law and practice, legislation which allows for the arrest and imprisonment of prisoners of conscience; protections for detainees and defendants under the criminal procedure law which are in some cases inadequate and in others are ignored; the lack of an independent body with either the powers or resources to carry out prompt, thorough and impartial investigations into reports of human rights violations; and the absence of systems which would guarantee that the security forces are held accountable for their actions.

Under these conditions the people of East Timor remain at risk of imprisonment as prisoners of conscience, arbitrary arrest and detention, torture and ill-treatment, "disappearance" and extrajudicial execution.

The reality of the risk is graphically illustrated by recent incidents in which international principles have been flouted. In the last few days, two East Timorese have been shot dead during a visit by three European Union Ambassadors to the territory. On 27 June, one man was believed to have been shot dead by the military in Manatuto during a confrontation between pro-independence groups and supporters of integration with Indonesia. Another man was killed by the military and five wounded in Baucau on 29 June when a crowd attacked a vehicle carrying plain clothed military personnel which was following the European Union Ambassadors. A third person, Herman Dasdores Soares, a 21 year old East Timorese man was shot dead on 16 June in Obrato, some 60 kilometres east of the East Timorese capital of Dili. According to reports Herman Dasdores Soares was shot by a territorial soldier who suspected him of stealing firewood. He died of his wounds on his way to hospital in Dili.

A few days earlier, on 12 June 1998, a demonstration by East Timorese students in the grounds of the Foreign Affairs Ministry in Jakarta was forcibly broken up by Indonesian security forces. The protesters were beaten with sticks and kicked, and at least three female students were hospitalised as a result of their injuries. Several hundred demonstrators were taken away in buses to three separate places of detention in Jakarta. All

were released the following day, although one of the students is reported to have been rearrested and detained for another night during which time he was badly beaten.

These events all took place just days and weeks after President Habibie made a public statement calling on the Indonesian Armed Forces to act with "professionalism" and to carry out their duties "without victims"¹. President Habibie's appeal for restraint applies equally to East Timor where the security forces have operated for many years in an atmosphere of almost total impunity.

The continued presence of large numbers of security force members in East Timor creates an atmosphere of fear and intimidation. According to reports received by Amnesty International the military continues to hold at least 24 people in incommunicado detention in various locations in East Timor. Among them is Justino Bernadino, a commander of the East Timorese National Liberation Army - *Falintil* - who was arrested by members of the special forces, Kopassus, in late March 1998. Since then he has been held in incommunicado detention in Los Palos. The military's record of torture and ill-treatment of detainees, particularly those who are denied access to lawyers or to their families, raises serious concerns for the well being of Justino Bernadino and the 23 others still believed to be held in incommunicado military detention.

A climate of change - recommendations for reform

In the few weeks since the resignation of former President Suharto a number of measures have been taken to redress past human rights violations. In a much publicised presidential amnesty 15 East Timorese prisoners were released on 11 June. However, there are at least another five East Timorese prisoners of conscience who should be immediately and unconditionally released.² In addition there are at least 72 political prisoners or detainees facing political charges whose convictions or continued detention should be reviewed. In the absence of an independent judiciary there is a need to establish a civilian body to review both the evidence and the proceedings in each trial against well established standards for fair trial.

Amnesty International was also encouraged by the military's swift response to the unlawful killing of Herman Dasdores Soares in apologising for his death and indicating that it would bring the individual responsible to justice. However, the responsibility for

¹ Reuters, 11 June 1998.

² Francisco Mirando Branco, Gregorio da Cunha Saldanha, Jacinto das Neves Raimundo Alves, João Freitas da Camara and Saturnino are serving sentences of up to life imprisonment in connection with the Santa Cruz Massacre. Amnesty International believes that they are all prisoners of conscience and should be immediately and unconditionally released.

Herman Dasdores Soares death and the thousands of other extrajudicial killings which have taken place in East Timor over the years goes beyond the individual members of the security forces involved but also lies in the deep structural flaws, including the lack of accountability, which have fostered a culture of violence by the security forces in the area.

Apart from the case of Herman Dasdores Soares there remain numerous other extrajudicial executions "disappearances", arbitrary arrests and reports of torture and ill-treatment which require investigation by an independent authority. Among them are the cases of the 24 people believed to be currently held in incommunicado military detention as well as older cases such as the killings and "disappearances" of at least 100 people on 12 November 1991 when Indonesian soldiers opened fire on a peaceful demonstration in Dili. Amnesty International considers the official investigations which took place after the event to have been unsatisfactory and continues to call for a thorough and impartial investigation into the events of that day.

Other reports which require investigation are the cases of East Timorese women who have been subjected to rape by members of the Indonesian security forces. Recent unconfirmed reports refer to six cases of rape by the security forces so far this year. An investigation was initiated into one case which took place in November 1996 when Aliança Henrique dos Santos reported having been repeatedly raped while in the headquarters of the Sub-District Command - Koramil - in Ermera. Although she provided a full account of her experiences to the Military Police and they began an investigation, the results of the investigation are not known and no one has been held to account.

In order to demonstrate its commitment to redressing injustices and ending the cycle of impunity in East Timor, the new government in Jakarta must set up mechanisms to establish the truth, to bring to justice those responsible and to compensate these and other victims or their families. It must also ensure that local human rights monitors are able to carry out their work without fear or harassment and allow regular access to international human rights organizations including Amnesty International.

The Indonesian Government must also demonstrate that it is now genuine in its promises to cooperate with the United Nations by implementing recommendations made following visits by UN experts and by the High Commissioner on Human Rights to East Timor³ and contained in the resolutions on East Timor which have been adopted by the

³ See: Report of the Special Rapporteur, Mr. P. Kooijmans, pursuant to Commission on Human Rights resolution 1991/38, Addendum: Visit by the Special Rapporteur on torture to Indonesia and East Timor, E/CN.4/1992/17/Add.1, 8 January 1992;

Report of the United Nations Special Rapporteur on extrajudicial and summary or arbitrary executions on his mission to Indonesia and East Timor in July 1994, E/CN.4/1995/61/Add.1, 1, November 1994;

United Nations Commission on Human Rights⁴. It must also act on the commitments contained in the negotiated statements by the Chair of the Commission.⁵ As a first step the government should fulfil its commitment to invite the Working Group on Arbitrary Detention to visit East Timor in time for it to report to the fifty-fifth session of the Commission.

Amnesty International is also calling on the Government of Indonesia to work with the international community, donor countries and the international financial institutions in implementing a comprehensive and coordinated approach to the situation in East Timor.

As a first step, the High Commissioner for Human Rights should take the lead in developing a human rights programme to be agreed by all the parties in East Timor with a time frame for implementation. The programme should include a United Nations system wide approach to be implemented in coordination with the various UN Agencies and the international financial institutions. It should identify key steps to be taken in order to create an environment for human rights promotion and protection. This could include the Memorandum of Understanding which is currently under discussion between the Indonesian Government and the UN Centre for Human Rights. To be effective the memorandum must include a human rights monitoring component and must form part of a wider programme of human rights reforms. These reforms should include reform of the judicial system to ensure adherence to international standards of fair trial and independence; the establishment of a civilian police force trained in law enforcement and human rights standards; the creation of a clear division of work between the armed forces and the civilian police; the development of mechanisms for accountability and monitoring of law enforcement including the creation of an independent complaints mechanism able to provide compensation to individual victims and the establishment of an indigenous East Timorese independent human rights commission.

A human rights programme for East Timor should specifically address the protection of the human rights of women and children and in cooperation with UNICEF and other relevant UN Agencies and Funds, as well as experts of the UN Commission on Human Rights, such as the Special Rapporteur on Violence against Women, in order to ensure the development of a comprehensive framework of protection for all.

Report of the High Commissioner on Human Rights on his visit to Indonesia and East Timor, 3-7 December 1995, UN Document E/CN.4/1996/12, 14 March 1996.

⁴ Resolutions were adopted in 1993 - Resolution 1993/97 (E/1993/23-E/CN.4/1993/122) and in 1997 - Resolution 1997/63 (E/1997/23-E/CN.4/1993/150).

⁵ Statements by the Chair of the Commission were negotiated in 1994, 1995, 1996, and 1998.

Amnesty International believes that the talks on the future of East Timor can only reach a successful conclusion within such a human rights framework.